

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WA.No. 2658 of 2007

AGAINST THE JUDGEMENT IN WPC.19585/2006 Dated 26/09/2007

APPELLANT/PETITIONER :

ASHWIN KASHYAP,
S/O.SHRI V.S.KASHYAP,
RESIDING AT 355,16TH MAIN 33RD CROS,
4TH THE BLOCK, JAYANAGAR,
BANGALORE-560 041,
PROPRIETOR, M/S.ASHCOAT,
PLOT NO.477C,
4THPHASE PEENYA INDUSTRIAL AREA,
BANGALORE-560 058,
REPRESENTED BY POWER OF ATTORNEY
HOLDER SRI. H.S. NAGARAJ,
S/O. SRI SUBBARAO,
AGED 48 YEARS,
RESIDING AT 1233,
“SANTHRUPHY”,
HESARGHATTA ROAD,
T.D. HALLI, BANGALORE-560 057.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS/RESPONDENTS:

1. M/S.AUTOCAST LTD.,
S.N.PURAM, CHERTHALA,
ALAPPUZHA DISTRICT,
PIN: 688 582.

2. THE MANAGER (MATERIALS),
M/S.AUTOCAST LTD.,
S.N.PURAM, CHERTHALA,
ALAPPUZHA DISTRICT, PIN 688 582.

BY ADV. SRI. K. ANAND.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L. DATTU, CJ. & K.M. JOSEPH, J.

WRIT APPEAL No.2658 of 2007

Dated this the 23rd day of November, 2007.

JUDGMENT

H.L.DATTU, CJ.

This appeal is filed against the order passed by the learned Single Judge in W.P.(C) 19585 of 2006 dated 26h September, 2007. By the impugned order the learned Single Judge has rejected the writ petition.

2. In the writ petition filed, the petitioner has sought for a direction to the respondents to make payment admittedly due to the petitioner for the supply of pre-coated sand.

3. Admittedly the first respondent Company is before the Board for Industrial and Financial Reconstruction (herein after referred to as 'BIFR'). It appears that BIFR has passed an order directing the winding up of the Company. Against the said order, the Company had approached the appellate authority (AIFR). It appears that the AIFR allowed the appeal and remanded to the BIFR for further consideration. That only shows that the matter is pending before the BIFR as provided under Sections 16 and 22 of the Sick Industrial Companies (Special Provisions) Act, 1985. In that view of the matter, in our opinion, the learned Judge was justified in rejecting the request made by the petitioner to direct the respondents to make payment due under certain invoices.

4. We do not find any error in the order passed by the learned Single Judge, which would call for interference by this court. Therefore, the Writ

WA. 2658/2007.

2

Appeal requires to be rejected and it is rejected. The dismissal of the Writ Appeal will not come in the way of the appellant and the respondents settling the lis between themselves.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

sb.